Embroidered Bobbinet Curtains

On Thursday morning, June 7th, we did dictate and write, complained of in will close a line of embroidered Bobbinet this information. Is that correct?

Curtains. These curtains are of an exceedingly fine texture | himself. and prettily embroidered borders, 50 inches wide, 31 yards Mr. Oldham-And you knew then that the

Come early, as the quantity will not last long. Also one lot of Embroidered Swiss Curtains, 40 inches application to re-open that case.

wide and 3 yards long, former price \$3 per pair, tomorrow, per pair

AGENTS FOR FOSTER KID GLOVES AND McCALL'S PATTERNS.

THOMPSON, BELDEN & Co.

genuine case pending, but an attempt to get a case neading in court, and consequently there could have been no impropriety in a general criticism, although this may be too severe and entirely too personal. But on a general line of policypending then, I understand you to say you

do not justify it? Mr. Rosewater-I do not justify it in pending case, if there was a tendency to interfere with the case; that is, with its proper adjudication. The article that I have written I claim to be within the line of privileged communications, which editors are not only

authorized, but expected-Courts Not Above Law.

Judge Sullivan-Do you mean by that that you claim the privilege of arguing cases even before counsels have submitted their argumenta?

Mr. Rosewater-I To not, but I claim the will come eventually to the court privilege of express... a views as to the proof courts doing things that are con- general. trary to law. Courts are not any different from any other individuals. I have had the States. "The king can do wrong."

steps and continue to argue the case and competent. urge the court to a particular line of action in that care?

of the judges of this court in view of the much weight as it should receive. facts that he had expressed an opinion on that subject.

Judge Sullivan-Isn't that an attempt or from the bench and prevent him from participating in that case'

drive him or anybody. Judge Sullivan-Is it not an attempt? I do not say that you can: evidently you cannot. But is it not an attempt to do so? Rosewater is an attempt to recall

the fact that injustice might be worked, or rather that the participation of that particular judge in that case might prejudice th

Judge Sullivan-Let me ask you whether you have a financial interest, or whether The Bee has a financial interest, directly or indirectly, in the result of the case of the State against Kennedy.

Mr. Rosewater-No. I don't know that t have a financial interest. We have rights that are protected by law.

Judge Sullivan-Then that is a case in which you have an interest and in which you are proceeding to obtain a particular de

No Financial Interest. Mr. Rosewater-No. I have had adverse

commissions and commissions that were friendly and it all depends upon their adherence to the law. When they are outlaw commissions they can injure us, otherwise they are not in the least offensive to us and can do us no harm. Judge Sullivan-Do you mean to say by

that that you want a friendly commission Mr. Rosewater-No; I want an honest commission. Judge Sullivan-One that would give you.

Mr. Rosewater-No, I have no right to get any patronage from any commission. The commission is simply bound to declare after

investigation a state of facts as proved before them if they will permit it; that is all there is in it. Judge Sullivan-Practically, has not the commission always determined whether the

patronage should go to your paper or to the opposition paper? Mr. Rosewater-No; the supreme court of

this state has practically settled that whole matter and left it so that no commission can say anything unless they absolutely ignore all the decisions and violate all law. Judge Sullivan-Do you say under oath

that you have no direct or indirect interest in the decision of the case of State against Kennedy or that The Bee has no financial interest, directly or indirectly Mr. Rosewater-Neither The Bee nor my

"Woman's Work is Never Done."

The constant care causes sleeplessness, loss of appetite, extreme nervousness, and that tired feeling. But a wonderful change comes when Hood's Sarsaparilla is taken. It gives pure, rich blood, good appetite, steady nerves.



Mr. Rosewater-If they are not Judge Sullivan-Therefore you are inter-

Mr. Rosewater-If there are going to be Judge Sullivan (interrupting)-With a case outlaws we would be defenseless, but if the commission is honest and would enforce the law we would have no interest. Judge Sullivan-Is there any further testimony to be offered?

> them to the court. Judge Sullivan-You may in the first instance submit them to counsel, and they Note-Affidavits submitted to attorney

Mr. Smyth-We object to these affidavits for the reason that it is not proper to offer audacity to say to the president of the United affidavits in a proceeding such as this, the state being denied the right to confront Judge Sullivan-Mr. Rosewater, that is not, the witnesses and to cross-examine; furthe question. The question is whether after ther, that the matter set forth in the afcounsels have submitted their case to this fidavits is immaterial and irrelevant under court and the case is in the hands of the the issues in this case, but especially do to write an article pointing out to him what court, whether you may then follow in their we urge the first objection that it is in-

with my associate, we will receive the ev-Mr. Rosewater-In the article that I refer idence subject to the objection that it is

cision of the court, but the court will pardon me for observing that the matter your part to drive one member of the court which is contained in these affidavits is for the most part presented here by men who are utterly irresponsible, and should Mr. Rosewater-I don't see how I can not be permitted to go into the records of this or any other case without an opportunity being given to cross-examine, but your honors will have to settle that ques-

Received Subject to Objection. Judge Sullivan-I think we will take that

if they are competent and relevant we will regard them as evidence and give them as much weight as they may deserve. Mr. Rosewater-The affidavits.

of the position that I take that when an editor has good reason-Judge Sullivan (interrupting)-Mr. Rose-

water, we have ruled upon the question and the discussion upon that point is at an end. why they were offered

Judge Sullivan-They have been received eral. Is there anything further? Mr. Rosewater-I would prefer not to have

them read because I do not think it is desirable that they should be read. Judge Sullivan-You could not read them

Mr. Rosewater-H the attorney desires I will have those witnesses cited to appear here for the purpose of cross-examina-

Judge Sullivan-Let me say a ruling upon

tions with people, whom I considered perfectly reliable, that led me to believe that there was a concert of action in two cam-

paigns, last fall and this spring, to use the influence of certain political people upon members of the court.

is relevant. What you say is not. influences have been brought?

Court Will Not Listen Mr. Rosewater-L don't know whether the governor of Nebraska has any influence when you wrote that article? ipon the members of the court, but I do know that Governor Poynter, this last as an editor. We have that in common

shows that your publication was justified. proceedings. I would be allowed to show was true, even though it might not prove to be true after testimony had been introduced. If the editor has used due diligence to ascertain a fixed set of facts, and he believes it to be true, he is stways privi-

leged to print it with good motives and for justifiable ends.

General Smyth-Of course we deny that reposition of law, your honor. Judge Sullivan-Of course. Is there any further evidence?

Deputy Attorney General Oldham-1 would like to be permitted to ask Mr. Resewater one or two questions. Judge Sullivan-You may do so.

Oldham Takes a Hand. Mr. Oldham-Now, Mr. Rosewater, I understood you to say that you had been reading Mr. Connell's brief just before Mr. Rosewater-Yes, he brought it to me.

question was pending in this court on objections filed by Mr. Council to Judge Holcomb sitting in the case, did you? Mr. Rosewater-I simply knew there was an application for a hearing in this court; an

Mr. Oldham-Did you know that Mr. Connell was objecting at that time to Governor Holcomb sitting in Judgment in this Mr. Rosewater-I knew whatever the con-

tents of the brief were. Mr. Oldham-Did you talk with Mr. Con-Mr. Rosewater-Well, very briefly, only

ew minutes. know that Mr. Connell, at least, was objectat that time.

jecting to his participating in the case Mr. Oldham-And with that knowledge, wrote that article, did you, Mr. Rose-

ourt for any member of the court to do had expired. what would not be done in other courts. Object of Editorial.

Mr. Oldham-Then your object in writing that article was to prevent Judge Holcomb from sitting in the case?

Mr. Rosewater-No; it was simply to arrest his attention, or rather to direct his attention to his former declaration. Mr. Oldham-Was it your intention to in-

Mr. Rosewater-No, I simply discussed

reach or did you intend to reach when you wrote that article with reference to what Judge Holcomb should do in the case? Did you intend to reach the conclusion that he should sit or not sit?

Mr. Rosewater-My impression from reading the brief was that it neight be an improper thing for him to sit in that case. Mr. Oldham-Then you did that from readcourse he should take with reference to that question?

Mr. Rosewater-It was my duty as an editor to do justice and let the heavens fall. to and that I wrote there is no attempt of incompetent and irrelevant and we will was it your intention to influence him to sit tion of the proper penalty whenever it exthat kind; the article simply states, or sug- pass upon that question later, and if we or not sit in that case? You know what was gests, the impropriety of participation of one determine that it is relevant, give it as in your mind when you wrote it. Which way that must be exercised by it as a monitor was it that you intended to influence him?

Thought it Would Be Indelicate. Mr. Rosewater-I don't know just what attention to the practice in the selection of juries, that a juror who had formed and lowed to sit in the case, and I thought that if a judge before he became a judge had expressed an opinion upon a question pendng, or going to be brought up, that it would be an indelicate thing, to say the least, that he should sit in that case, because he had already expressed an opinion on it.

Mr. Oldham-Then what you intended to do was to advocate the theory that Judge Holcomb should not sit in the case? Isn't that the bject of your article to show to the publie that Judge Holcomb should not sit in that case-wasn't that your object? Mr. Rosewater-It was to create the im-

pression that Mr. Conneil-Mr. Oldham-You can answer that yes or Judge Sullivan-No evasion. Mr. Rose-

Mr. Rosewater-There is no evasion. did not think the judge should sit in the

Mr. Oldham-Was that your intention when you wrote that article to tell the public that he was not to sit in that case? Mr. Rosewater-The public had little to do

with it. My idea was that it was a proper application Mr. Oldham-I asked you what your object was in the writing of that article, or the onclusion you sought to reach in that article.

whether he should sit or not sit. Speaks for Itself.

Mr. Rosewater-The article speaks for it self and the conclusions are clear. Judge Sullivan-Do you refuse to answer ounsel, Mr. Rosewater? You have not answered his question. Mr. Rosewater-I will say then that

thought that the brief was properly framed with the idea of calling the attention of the court to the questionable propriety-Mr. Oldham (interrupting)-I asked you what conclusion you intended to arrive at

from that article that you wrote. Mr. Rosewater-As I stated, my conclusion was that it might be improper for the judge

to sit in that case. Judge Sullivan-Do i understand you to say that you wrote that article after Mr. Connell, counsel for the respondents, brought his brief in that case to you?

Mr. Rosewater-Yes, sir. Judge Sullivan-Don't think that you were acting as associate counsel in the case Mr. Rosewater-Not at all. I was acting

every timeupon it!

Mr. Rosewater-I think he wanted me to comment upon it

upon it Mr. Rosewater-Yes, sir Judge Sullivan-Was that to further Mr.

Connell's interest? Was a Public Question.

which concerned the people of our county and the state at large and I discussed it o take part in the deliberation.

ence to bear upon a member of the court? of an editor

o bear upon one member of the court? Mr. Rosewater-The ultimate object was to sustain justice and equity. Judge Sullivan-That is by giving a deci-

sion in favor of the respondents? Mr. Rosewater-I don't know; I did not suppose there was any decision to be had. whatever; I supposed the case was closed and that this was an attempt to reopen it; that was my understanding, that it was an attempt to reopen a case that was already

Judge

Mr. Simeral-Nothing further, your honor. saying to the court that it would be an in- Mr. Rosewater a testimony covers the same have aircraft heard upon the street what the The court then gave each side an hour to fraction of all of our jurisprudence and the ground. Where in a proceeding for indirect decision in this case was going to be, how present arguments. Oldham for the state.

was founded upon a certain cause of action now pending and undetermined in this court. and undetermined at the time of the objectionable publications in The Omaha Bee. He insisted that the records of the court would prove that the case was at issue. 'The state believes," said he, "that there is a wide range of difference between the liberty of the press in commenting upon decisions that have been rendered by courts and the abuse of the press in interfering with causes that are pending within a court and have been undecided. We think that the line of demarkation is clear and defigite. We believe that the constitutional right to now to every one who is even a subject of an evil which the law must guard against."

did invaluable service. He was cut short in Mr. Rosewater-I wrote the article because the midst of an eloquent peroration by the thought it would lower the dignity of the notification of the court that his time limit

Edward Rosewater spoke in his own be-

"Your honors, the assistant attorney gen eral has called your attention to a multiplicity of cases that may be found in the various law books for citing editors to appear before the supreme courts of the United by the clerks of the various supreme courts constructive contempt might not lie against attorneys practicing before a court, but the monarchical countries, and has never been exercised by the supreme court of the United States, has never been exercised by he state of Nebraska before and has never been exercised by forty of the states in this union, although our government has en-

"So it is in its disuse rather than in its xcessive application that the people of the United States feel safe in the preservation of their institution. But I do not contend that the press is exempt from the imposi-

was in my mind, except the general principle court: First, that no contempt case can lie involved. I started the article by calling unless upon its face the article written, The supreme court of Nebraska has decided expressed an opinion could not well be ai- in the case of Percival, tried in the court before Judge Scott, that no interpolation can be allowed in any article where the editer is to be cited for contempt before the court, but the arracle itself must on its face be criminally libelous, or at any rate must

What is now pending before this court stified in making the comment which I did in view of the conditions and with the facts that were before me, and whether I exercised due diligence in determining whether these facts were substantially correct or not.

"First and foremost, was there a pending? For it is admitted right here that if the case was not pending there could be no prosecution for constructive contempt, because the press has a universal right to discuss decisions of the court and proceedings of the court so long as they do not obstruct the ends of justice, or prevent its proper administration. Now then, is there a case before this court? and I venture to assert this to be a fundamental principle; whenever a supreme court makes final adjudication of any particular issue that issue is binding upon every citizen, upon every public officer, and upon the court itself.

supreme court of Nebraska struck out of the statute relating to the government of metropolitan cities that part that relates supreme court declared that part of it equity is a discussion of a judicial principle. make appointments to the commission? or was known to have written an article ex-There was no warrant of law for making pressing his views on one side of the quessuch an appointment because the law had Judge Sullivan-What was Mr. Connell's been declared void, and he himself had to have called attention to that fact? laten to that, Mr. Rosewater. If you under- object in bringing you his brief, to comment previously announced that it could not be think it would, although I may be mistaken, made because there was no law for it. If the governor, notwithstanding that fact, did But that is my impression. If I am laboring appoint a commission, what right had the under a delusion I beg the pardon of the Judge Sullivan-And you did comment attorney general to come into this court court and ask the court to consider a case that has been absolutely closed, when he knew that the men had been appointed unlawfully, or rather, without any warrant of law. He is the one that insulted the court Mr. Rosewater-Not particularly. This and committed a contempt, if there has

was a public discussion of a public question, been any contempt committed. "The comment for which I am held responeible was made simply because I bedispassionately and without any feeling, and lieved, and do yet believe, that there is no simply directed the attention of the public case pending. Now, if the attorney general every proposition to which he referred has to the possible impropriety of having a had no right to bring in clients in the name udge, who had expressed an opinion on it, of the state and stand up as sponsor for a case for men who had no title whatever go right here into your own volumes in the Judge Sullivan-Let me inquire. Why did and who had no rightful claim, because they records of this very court for precedents, but you wish to direct public attention to it; did were appointed by the governor without you desire the public to bring some influ- authority of law, there can be no case pending in this court. There might have been Rosewater-Our business is con- a consideration of the question whether stantly to direct public attention to matters, there should be one pending, but the case itoncerning the public; that is the business | self is closed. And I say furthermore that if that case is not closed then all other Judge Sullivan-Was it your ultimate cases that have heretofore been adjudicated purpose by so doing to bring public pressure by the supreme court of Nebraska are not closed and if any one of them were commented upon the editors making such comment could be held for contempt if they

Not Afraid of Jail.

"I do not contend here that the last court decided this case right; it may have been wrong, but it has rendered a decision and the case is closed and that case being closed as an editor, took the therty to discuss the merits of the application and the pro-

rights of the citizens of Nebraska, more esno disrespect to that judge, not at all.

"If I have any duty to the public it is that ous infractions of public rights wherever they may be and I must do it, let the consequences be what they may. I have been in jail before and I am not afraid to go there again. stand up for it. "Let me call attention to the fiction as-

serted here, that an editor may be held criminally liable for something he has had no other relation to except ownership. Supposing I owned a team and I had a as conclusive. drunken driver who recklessly allows the team to run over a child, or killed some "This is a monstrous doctrine.

without law is licentiousness; that an un- is only where the knowledge of the editor worthy of serious consideration. I shall not restricted abuse of the power of the press is has been drawn to the article and when read it all: 'Have you formed or expressed n evil which the law must guard against." It has been criminal, that then he can be an opinion in this case, is the question Mr. Oldham denied the assertion of Mr. punished criminally. He may civilly, of asked of every juror before he is sworn. Rosewater that there were but four cases, course, be liable for whatever damages etc. That is the gist of it and that is all during the existence of this government, in may be sustained by its publication, which the various supreme courts of the whether it is within the knowledge of the Mr. Oldham-Then I understand you did United States had cited editors of newspapers owners or not, but you cannot punish un to appear before them on the charge of con- individual and hold him criminally responsible for acta which he did not commit will-Only Reflected Public Opinion.

publications I am not, of course, going speeches, in which vehemence of expression ing for myself only-that were not under to defend the corporation, but I am speak. dence. my direct supervision, and which I had no to influence any member of the court? knowledge of until after I came home after having been cited to appear before that has not been resorted to, as I say, but five times in all these United States, I do not see how I could have mended matters in any way by writing anything fur- attention to it. ther or retracting anything that had been We have simply published public said. opinion in general upon this proceeding and thing personal in this at all-States on the charge of constructive cos- I think today that the courts of Nebraska fluence his action in sitting in this case, in tempt and he says that I have been buncoed are more injured by the exercise of these honor. I say to the court that many percontempt powers than they are benefited, Mr. Conneil's brief and the prepriety of his that there have been no contempt cases grossly insulting to members of a court it was the intention of the party that wrote against newspapers, but he has only cited or an interruption of proceedings taking this article to impugn the intention of this place in their presence.

"I remember how the supreme court of inherent power of contempt is inherited ham Lincoln; I remember how it was de the United States was denounced by Abranounced by men of the highest standing it this land; I remember how cases pending o greenbacks, cases pending upon the incomtax and cases of the highest order, involving the welfare of the whole nation, have been discussed by the press of the country, and not very gingerly, either, and sometimes federal courts and judges who had made decisions in the circuit courts and appellate courts were roasted by the press and yet in none have such proceedings as here been invoked.

"I have already said that I disclaim all inention and have no desire to reflect in any nanner upon the members of this court, but am ready to stand whatever the conse quences may be for that of which I have been guilty. At the same time the cases that have been cited here in support of the prosecution are not applicable as examples for this one. In every instance they refer to an attempt to interfere with the proceedings of courts where there was mob law invoked or grave charges made against

No Impediment to Justice.

"There has been no statement published that would impede the administration of have a tendency to destroy the freedom of Justica in the state of Nebraska and this "In the next place, we know that under case and I do not think there would have the statutes of Nebraska defining crim- been the slightest sipple on the political inal libel, no one can be punished unless sea over the matter. But I still hold and of that individual if he can do so and not the libel is both faise and malicious. It believe, and I shall continue to believe, that must be false and malicious and not false this court has no right to consider a propo-An editor who publishes sition that has been finally adjudicated until what he believes to be true, with good in- a new legislature enacts some law that entent and for justifiable ends, although the enables that court to pass upon some new facts finally show that is was not true, feature. This part of the law has been cannot be held for criminal libel; it must eliminated from the statute books by the he both false and malicious, and the intent action of this court and there if remains, is the main thing in every case, so far as My right to discuss ethical matters and the propriety of judges sitting in the trial or hearing who have expressed an opinion prior to that should be respected. For I have a this one solitary question, whether I was a duty that imposes as grave a responsibility duty to perform, not a sworn duty, but it is as that resting upon any officer of this state because the people look to the press as their monitor and safety valve; they expect the editor to be the watchman on the tower to call attention to every public abuse, and the truth is that we very often fail in calling attention to many abuses that we ought to eingle out and make manifest to the people. Much more do we fail in not publishing than we do in publishing. We are often more guilty in suppressing news that ought to be published and which the people ought to know than in the publication of news that is improper. We are compelled by the state of society and by the conditions that surround us very often to restrict the publication when in fact there ought to be something said.

quire whether or not you contend that while a case is pending in the court that it is the

Mr. Rosewater-I do not so contend. for a moment. I do not pretend that the press is supposed to try cases. But its right to the appointment by the governor of the to discuss judicial principles is a different fire and police commission. When the matter. Now this article on justice and invalid it was stricken out of the statute Suppose there had been a case pending in and is not there now. In view of that the district court and one of the jurors had fact, what right had Governor Poynter to been asked whether he had formed an opinion tion, would it have been proper for the press and I am always willing to be corrected.

> balf of that corporation as follows: 'May it please your honors: I listened with a good deal of interest to the argument advanced by the assistant attorney general and I had expected that he would call attention to some new principles of law, but in that I was disappointed. I think that been decided by this court. We do not have to go outside of Nebraska. You can the difficulty is that those precedents do not support the contention of the state in this prosecution. They say in so enany words that if an article is not libelous on its face, if it requires an innuendo to attach the court to it, that no contempt lies. No, the attorney general did not call attention to these cases. I will do so.

"The first is that of Rosewater versus the State, 47 Nebraska, 630. The sylla-bus is as follows: 'Where a newspaper article is not per se contemptuous, or where t is susceptible of more, than one reasonable construction, one of which is innocent, and requires an innuendo to apply its eneaning o the court and the record fails to disclose that the language was employed in its culpable sense, the publisher is not liable for

"Again in the case of Percival against the State another principle is laid down: I read

is not libelous per se and does not unless upon calling attention to public abuses, to aided by an innuendo apply to the court nor dangerous infractions of the law and danger- reflect upon its integrity of purpose and not give heed to such rumors. In so far as any reflection upon the court terpretation, and the defendant in an answer sworn to by him positively asserts that he When I believe I am right I will used the language employed in the article tirely with us and that the court will conin a meaning other than libelous and with no intent to reflect upon either the integtity or honesty of purpose of the judge or to embagrass or to impede the administration of justice, such answer will be taken

Nature of the Articles.

'Now, what are the articles charged or willfully. Should here? The first one that was written by Mr. Rosewater cannot be taken under a fair construction as being criminal or libelous. It is It is a very mild, dispassionate presenta-He may civilly, of asked of every juror before he is sworn, that is said and then there is some reference made to the fact that the attorney for the city filed a brief, or filed a motion requesting Judge Holcomb not to sit in that case."

The second article is entitled The Ethics of Justice.' Now, I cannot see how by reading that any court can object to it. "Then comes the question as regards the There is nothing criminal or libelous there, course pursued by the paper with these it simply calls the attention of the court to an underlying principle of our jurispru

Judge Sullivan-Does it have a tendency Mr. Simeral-None whatever. Strike ou the innuendoes, because if it has not that this court, a proceeding without precedent tendency upon its face, then under your the annals of this state, a proceeding decisions you must consider it as innocent strike out the innuendoes and where is it Why, your honors would not know you were insulted unless somebody called your

Judge Sullivan-Mr. Simeral, do not proceed on the assumption that there is any Mr. Simeral-I appreciate that, your

sons do not know that they are insulted Where the Judge Comes in.

Judge Holcomb-Is it not the purport of

that, Mr. Simeral, to impress the public with the view or with the opinion that it was improper for one of the judges to take any part in the case? Wasn't that the tenor of it and the fair import of it? Mr. Simeral-If that were the case, your honor, I think that if that judge had said

should not sit.

and when a principle is laid down and that principle is true it must live forever. If courts and judges are going to sit and going to pass judgments upon cases in which they feel they are interested and in which they are biased, then I say that our principles of free government will be wiped from the face of the earth. You will notice in the decisions of this court wherever you find that a judge has come up from a lower court and been upon the beach, wherever he has taken part in a case the records

interfere with the due administration of the law if he is not declining to assume a duty which under his oath of office and the position he attempts to fill.

Mr. Simeral-I appreciate that, your honor think that the court could say so, the judge could say so, the individual could say so, if the public or the newspapers thought that this judge should not sit in the case, why let him come out and say why he sits; he is entitled to that defense to answer the newspapers.

What the Practice Is.

Judge Holcomb-Isn't that the case, if i s tried in the regular way? If that is true might not the qualifications of a juror or his character or his fitness to sit in the case be a theme of discussion, and yet in justice to the court a person who would in any way attempt to influence a juror would be brought before the court for contempt

Mr. Simeral-There is no question about that, but that is going to the ultimate fact and to the basic principle, which is whether a judge who feels in his own mind that he may have expressed an opinion, whether he should sit; that was the principle that was argued and on that line.

Judge Holcomb-That question like al other questions is a question to be deter mined in the ordinary progress of the trial. Mr. Simeral-That may be, but in the ordinary progress of the trial sometimes there is delay, as we know, and in the meautime the press is discussing it.

Judge Sullivan-Your idea seems to be hat the judge ought not to be so easily influenced.

low down to him. Judge Holcomb-Your position is doubtless orrect so far as the influence is concerned, for we have witnessed in this very case the departure of one of the members of this ourt because of newspaper criticism and it was so announced from the bench this morning when the chief justice retired. He had been criticised and in view of tha criticism he retired from the case. Now. then, if two or more judges should accept that as a sufficient reason, why it is ques ionable whether any opinions would be ren ered by this court at all. (Laughter.) Mr. Simeral-I don't want to reflect upon

tended. Analogies of the Cases.

Mr. Simeral-Now, let us take that very ase where the chief justice retired, and i Mr. Rosewater is guilty is not the editor of of Fire and Police Commissioners and put ting into office the board appointed by Gov

Horsford's Acid Phosphate

or constructive contempt consisting of the much Mr. Resewater was going to be fixed pecially when one of the judges has already publication in a newspaper of the article and how much would be taxed up to The Bepronounced on the other side. There was upon which the complaint is based is in- Publishing company. Now, of course, we definite in its meaning and application, and hear these things and they are commented

Judge Holcomb-A pure-minded man doe:

Mr. Simeral-That is true, but in this concerned is capable of an innocent in- particular case which we are now trying we do not attach any importance to these idle rumors, as we believe that the law is enstrue it in our favor. But in so far as this other matter is concerned, that was some thing which had been agitated during the campaign, it was a political issue more or less confined to Omaha and Douglas county, and whether right or wrong the fact remains that these people were talking about the matter. It is to be deprecated, but it is nevertheless the fact.

Now, the fourth article- is one that was published by the Grand Island Journal; published there originally, and The Bee and entire field of jurisprudence in this country and you may extend your search to England, or you may take in the English colonies, and you will look in vain for a case in which any court or any officer has held one newspaper responsible for the act of an-Island paper? It is the one which had the malicious intent, if there was one. This was merely a republication. But, if you want to punish for that particular article, then it strikes me that the logic and the law should be applied to one as well as to the other; to the paper originating it as well as

for the publication of that article? Mr. Simeral-That it was reprinted,

Mr. Simeral-No. I say you will look in vain for any newspaper brought up on the charge of contempt either in the lower courts or higher courts for republishing an article. Judge Sullivan-In other words, you do to

think the newspaper is responsible for re-Mr. Simeral-If it is libel, then the newssaper printing it should not be held for anything but libel. Now, in reference to the decisions which have been rendered assumed original jurisdiction in contempt reported in this country. The first case is that of The People against Wilson, in

(Continued on Seventh Page.)

TO WOMEN WHO DOUBT.

Letter and be Convinced that Lydia E. Pinkham's Vegetable Compound Boes Cure Female Weakness.

"I have been troubled with female weakness in its worst form for about ten years. I had leucorrhœa and was so weak that I could not do my housework. I also had fallthe womb and ovaries ing of the womb and inflammation of

very hard. I could very hard. I could or do any heavy work: was not able to stand on my feet. hundredsofdollars

I concluded to try your medicine and can truly say it does all that you claim for it to do.

know if they follow your directions, they will be cured."-Mrs. ANNIE THOMPSON, South Hot Springs, Ark.



CHICAGO and EAST.

ST. PAUL and MINNEAPOLIS LEAVE 6:55 A. M .- 7:35 P. M. HOT SPRINGS — DEADWOOD

LEAVE 3:00 P. M. City Offices, 1401-03 Farnam.

Bacon is a guarantee of purity. Swift and Company, Chicago, Kansas City, Omaha, St. Louis, St. Joseph, St. Paul

Don't fall to try or Liver. 10 cents and 25 cents, at drug stores.

Matinees Wednesday and Saturday.
The Greatest Play of the Period-Our Own
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The Bee Publishing Co .- Omaha, Neb. Please Soud Part Special American Edition Parisian Dream City P. O. Enclosed please find cents. Send remittances for single numbers in stiver dimes THE PARTY PA

COUPON

We Close Our Store Saturdays at 6 P. M. THE ONLY EXCLUSIVE DRY GOODS HOUSE IN OMAHA

Y. M. C. A. BUILDING, COR. 16TH AND DOUGLAS STR. Now, my impression from talk I have had self have an interest in it if the commission with attorneys was that there was no is honest and the law is enforced. you have?

Judge Sullivan-And if they should not,

Smyth Objects to Affidavits. Mr. Rosewater-I have some affidavits and would rather submit them to the court only. Judge Sullivan-You may submit them, Mr. Rosewater, to the attorney general. Mr. Rosewater-L would rather submit

Judge Sullivan-I think, after consulting

Mr. Smyth-Of course, I accept the de-

honors, are offered simply in justification

Mr. Rosewater-1 simply wanted to state subject to the objection of the attorney gen-

now because we have not determined wheter they are relevant and competent.

that question has been made and the matter is ended. You may proceed with anything further that you may have to offer. Mr. Rosewater-I merely want to add, under oath, that for the last six or eight months since the agitation of the resubmission of the police commission question to the court, I have had personal conversa-

Judge Sullivan-The question is. Mr. Rosewater, what influence has been brought to bear upon members of the court that What

spring, had an interview with-Judge Sullivan (interrupting)-We cannot take to justify these articles or any one of hem you may indicate which one you seek o justify, and offer any matter bearing upon that point that touches the court and Mr. Rosewater-If this was a case of libel, and I take it that all criminal prosecutions for liber are just like contempt that I had reason to believe the publication

Deputy Attorney General Oldham addressed the court for thirty minutes in behalf of the prosecution. He stated that this prosecution

liberty and to discuss any question attaches body, accidentally to every citizen of this republic and we I be held criminally liable for him and trie! believe further that it should attach and does as a criminal and punished? the republic. But we believe that there a monstrous proposition and has never been tion and discussion of a principle of law and Now, your honors, you may look over the are limitations to this right and that liberty carried out in any court. I deny it. It of justice underlying our jurisprudence

ing to Judge Holcomb sitting in the case tempt, and asserted that the clerks of the various supreme courts who had written to fully and had not even thought of. Mr. Rosewater-I knew that he was ob- Mr. Rosewater that there had been no such cases in their courts had deceived and buncood him, but he failed to support these and with the knowledge of the fact that essertions during his argument. Mr. Oldham that question was pending in this case, you delivered one of his characteristic rodhouse

Speaks in His Own Defense.

half as follows: monarchical institutions and from

dured for 113 years.

for the public safety and the public good. "There are two or three principles to which I desire to direct the attention of the without interpolation, is criminally libelous,

I criminal libel is concerned. Question of Justification.

"In the case of Frank -E. Moores the

were to venture to discuss their decisions.

Sullivan-Has counsel anything priety of reopening and I believe with the from the syllabus in that case. Concluinformation I have that I was warranted in siveness of answer.' Permit me to say that

Judge Holcomb-Mr. Rosewater, may I in-

duty of the press to try that case before the

Mr. Simeral's Argument. B. W. Simeral, attorney for The Bee Publishing company, addressed the court in be-

contempt.

Genuine bears name Housvoup's on wrapper

in so many words that he did not feel that he could sit, or that if he did sit that he would not let his prejudice govern that that would have satisfied the public. Judge Holcomb-The purpose of it was to impress the public mind that that judge Mr. Simoral-This court lives forever, or will live as long as this is a free country,

show that Judge So-and-So did not sit. Judge Holcomb-That is the invariable to the propriety of a judge sitting in such a case is sufficient to cause the retirement

because he was obstructing the due process of law.

Mr. Simeral-I don't think he ought to be f he is right then the people of this country

he opinions of this court, your honor. Judge Holcomb--It is not a question o the effect; it is a question of what was in

that paper for what he said in that case also guilty of contempt? Now, in this third count it spoke of fusion ward beelers n Omaha giving out tips to the effect that the fusion judges of the supreme court would hand down a decision at their stiting wo weeks hence ousting the present Board ernor Poynter, etc. Now, of course, what the people around town say and what the newspaper announces is simply a matter of Perhaps it is to be deprecated that people talk about court decisions, but we

A TONIC Half a teaspoon in half a glass of water, refreshes and invigorates the entire system. A wholesome tonic.

Why don't you go after the Grand

Matter of Justification. Judge Sullivan-What is your justification

Judge Sullivan-You do not pretend to ustify it on any other grounds?

tailing the libel. from other supreme courts. I am not going into appealed cases, but I will cite only the decisions of the supreme courts which have cases for articles published in newspapers, and, in fact, there are just four such cases

Every Suffering Woman Should Read this

periods I suffered terribly. At times my

for doctors but they did me no good. Afteratime

Ten bottles of Lydia E. Pinkham's Vegetable Compound and seven packages of Sanative Wash have made a new woman of me. I have had no womb trouble since taking the fifth bottle. I weigh more than I have in years; can de all my own housework sleep well, have a good appetite and now feel that life is worth living. I owe all to Lydia E. Pinkham's Vegetable Compound. I feel that it has saved my life and would not be without it for anything. I am always glad to recommend your medicine to all my sex. for I



LEAVE 7:00 A. M.-4:55 P. M.-7:46 P. M

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